Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Commission Seeks	)	ET Docket No. 02-135
Public Comment on	)	
Spectrum Policy Task Force	)	
Report	)	

To: The Commission

REPLY COMMENTS OF PANAMSAT CORPORATION

PanAmSat Corporation ("PanAmSat") hereby submits these reply comments in response to the Commission's public notice seeking comment on the Spectrum Policy Task Force Report ("SPTF Report").[1] PanAmSat reiterates its belief in the prospects for and benefits of improvements in spectrum management, including increased sharing of spectrum. PanAmSat, however, opposes CTIA's insistence on making changes to satellite service rules because its proposed changes are unwarranted and would be adverse to satellite users.

PanAmSat owns and operates a global satellite system comprised of geostationary fixed satellite service space stations. In its initial comments in this proceeding, PanAmSat urged the Commission to enhance its leadership in international spectrum management, cautioned against spectrum sharing without adequate safeguards, and supported SIA's comments.

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[1] *See* Spectrum Policy Task Force Report, ET Docket No. 02-135 (Nov. 2002); *see also* Commission Seeks Public Comment on Spectrum Policy Task Force Report, Public Notice, ET Docket No. 02-135, FCC 02-322 (rel. Nov. 25, 2002).

I. Opportunities To Share Spectrum Should Be Tailored To The Particular Characteristics Of The Technologies And The Needs Of The Users.

PanAmSat supports the views of both the SPTF and the parties who have noted the opportunities for increased sharing of spectrum. As PanAmSat pointed out, increased spectrum sharing promises many benefits to satellite users and others. In fact, the fixed satellite service developed and grew in an environment of spectrum sharing with the terrestrial fixed services. To this day, careful coordination between terrestrial and satellite users of C-band facilities permits intensive spectrum use tailored to the particular characteristics of the technologies and the needs of the spectrum users. Thorough frequency coordination could well be an essential part of future spectrum sharing.

In addition, if new, unlicensed technologies are involved there must be rigorous studies, based both on analysis and field measurements, to assure that service providers and consumers, who have invested billions of dollars in satellite technologies, are not subject to harmful interference.

PanAmSat supports the SIA and other parties who have explained the particular vulnerabilities of satellite systems to interference and the concomitant importance of protecting these systems from such interference.[2] As these parties' comments and PanAmSat's initial comments make clear, changes in spectrum policy that increase spectrum sharing without providing adequate interference protection may have devastating results.

In this regard, PanAmSat reiterates its suggestion that, in tailoring sharing to the particular characteristics and vulnerabilities of satellite spectrum usage, the Commission consider limiting sharing of satellite spectrum to satellite uplink frequencies, which are substantially less vulnerable to interference than downlink

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[2] *See Comments of the Satellite Industry Association* at 9-12 (filed Jan. 27, 2003); *Comments of Hughes Network Systems, Inc.*; *Comments of Lockheed Martin Corporation* at 6-9; *Comments of Telesat Canada* at 3-4, ET Docket No. 02-135 (all filed Jan. 27, 2003).

frequencies. Further, any sharing regime should include US government frequencies, which would have the additional benefit of facilitating harmonization of satellite spectrum worldwide.

II. CTIA's Satellite Spectrum Demands Should Be Rejected.

In its comments, the Cellular Telecommunications and Internet Association ("CTIA") repeatedly asserts that satellite users "are not typically forced by market pressures to use spectrum efficiently."[3] This statement is plainly inaccurate. The huge, sunk investments necessary to build, launch, and operate satellites force satellite operators to maximize their spectrum usage. Satellite operators have compelling incentives to make the most of their resources, including their licensed spectrum.

The operation of this fundamental economic rule is confirmed by the history of satellite services. While the first communications satellites, launched in the 1960s, could transmit a single television channel or 500 simultaneous phone calls, today's satellites can carry over 500 television channels and thousands of data circuits. This dramatic increase in capacity has been accompanied by equally dramatic reductions in cost and equipment size. In short, and contrary to the CTIA's assertions, economic forces have long forced satellite operators to use their spectrum efficiently for the benefit of the public at large.

All of CTIA's arguments for changes to satellite spectrum policy flow from its fundamentally flawed premise that the satellite industry does not have an economic incentive to use its spectrum efficiently, and therefore CTIA's arguments should be rejected. There are, moreover, additional reasons to reject CTIA's attacks on the Commission's successful satellite spectrum policy.

For example, CTIA's suggestion that construction and service milestones for satellite services "should be much more aggressive"[4] ignores both the realities of the satellite industry and the stringency of current build-out requirements, which require prompt commitments by satellite operators to binding contracts for satellite construction. These substantial, up-front financial obligations provide an "aggressive" incentive to ensure that holders of satellite spectrum use their spectrum swiftly. Similarly, current deadlines for providing service are more than reasonable in view of the unique challenges of building and launching spacecraft. Satellite build-out requirements are tailored to the particular characteristics of the service provided and should not be altered lightly.

CTIA's argument that satellite spectrum should be routinely reevaluated to determine whether it should be reallocated[5] similarly disregards both the unique features of the satellite industry and the public interest. Unlike terrestrial services, satellite allocations take years of multinational effort to achieve. These efforts, and the near impossibility of recovering these allocations once they are lost, justify additional, not reduced, protections for satellite allocations.

Moreover, the constant threat of reallocation of spectrum can undermine the development of important and innovative services. Such concerns are particularly acute for satellite services, which require enormous up-front costs and entail higher risks than terrestrial services. If satellite spectrum allocations are routinely rearranged, there will be little incentive to assume these risks and financial responsibilities. For these reasons, current allocations of satellite spectrum should not be disturbed.

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[3] *Comments of the Cellular Telecommunications & Internet Association,* ET Docket No. 02-135, at v (filed Jan. 27, 2003); *see also id.* at 4, 8, 9, 16 and 24.
[4] *Id.* at 9.
[5] *See id.* at 9, 23-24

Finally, CTIA argues for an "aggressive rethinking" of the SPTF's determination that satellite spectrum is appropriate for the command-and-control model.[6] Again, CTIA disregards the practical realities of satellite spectrum usage. As the SPTF rightly observed, the unique international and treaty obligations that shape the provision of satellite services are precisely the type of conditions that require application of the command and control model.[7] These international obligations also argue against CTIA's call for a repeal of the ORBIT Act's prohibition on satellite auctions.

CTIA's effort to reshape the rules for satellite providers disregards the nature of the satellite industry, real-world economic forces, and the industry's long history of using spectrum efficiently. As a result, these proposals serve neither the purposes of spectrum reform nor the public interest, and should be rejected.

III. PanAmSat Supports SIA And Other Parties Who Oppose Auctions.

Finally, PanAmSat supports the SIA and other parties who oppose auctioning satellite spectrum and orbital slots. As the SIA has explained, there are strong policy reasons for the ORBIT Act's prohibition on satellite spectrum and orbital location

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[6] *Id.* at 16.

[7] *See* SPTF Report at 41-42.

auctions and nothing in the SPTF Report justifies rejecting Congress's carefully considered decision on this point.[8] PanAmSat also joins with the numerous other parties that have detailed the perils of satellite auctions.[9]

Respectfully submitted,

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February 28, 2003

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[8] *See Comments of the Satellite Industry Association,* ET Docket No. 02-135, at 3-8 (filed Jan. 27, 2003).

[9] *See, e.g., Comments of the Telecommunications Industry Association* at 11-12 ; *Comments of the Boeing Company* at 5-6 ; and *Comments of Lockheed Martin Corporation,* ET Docket No. 02-135, at 10-12 (all filed Jan. 27, 2003); *see also Comments of Professor Rob Frieden,* ET Docket No. 02-135, at 2 (filed Jan. 8, 2003).